



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

Matter of: Bell Free Contractors, Inc.

File: B-227576

Date: October 30, 1987

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### **DIGEST**

1. Forest Service did not give improper weight to aesthetic concerns in evaluating design proposals for pedestrian bridge in scenic area where request for proposals informed offerors that these concerns would be evaluated. As design proposals of protester and successful offeror essentially conformed to all design requirements, aesthetic concerns properly became of significant importance in selecting successful offeror.

2. Contrary to protester's position that Forest Service has not justified award of contract to higher-priced offeror for design and construction of pedestrian bridge, record of proposal evaluation contains statements that higher price was justified given proposal's perceived design advantage which does not readily lend itself to detailed narrative description but has been pictorially represented.

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### **DECISION**

Bell Free Contractors, Inc., has protested the award of a firm, fixed-price contract to Alpha Associates, Inc., by the Forest Service, Department of Agriculture, under request for proposals (RFP) No. R9-86-77. This solicitation was issued on March 7, 1987, for the "design and construction of a pedestrian footbridge" at the Seneca Rocks Visitor Information Center, Monongahela National Forest, West Virginia.

Bell Free argues that the Forest Service has not evaluated all proposals in accordance with the evaluation standards for the contract and that the subsequent award determination was, therefore, improper.

We deny the protest.

The RFP provided that proposals were to be evaluated "considering the technical factors and the price factor." The relative importance of the technical and price standards

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were to be considered equal unless the "technical evaluation of competing offers was approximately the same" when the price was to become "relatively more important."

Under the "Technical" section of the RFP, sub-factors were listed in descending order of importance as follows:

- Technical Knowledge and Experience
- Feasibility of Technical Approach
- Scheduling
- Organizational Support
- Quality Control
- Facilities and Equipment

Under "feasibility of technical approach," the RFP stated that the Forest Service would specifically consider the "appropriateness and feasibility of the offeror's preliminary proposed design" which was to be submitted as part of the technical proposal.

In preparing preliminary proposed designs, offerors were to take into consideration the RFP's design requirements which covered both general and specific considerations. General design considerations were listed first and provided that all designs were to conform to the following criteria:

1. Overall aesthetics of bridge to best fit environment.
2. Treatment of exposed surface finishes shall be of a material resistant to corrosion and deterioration of bridge members.
3. Minimum maintenance and easy repair of components.
4. Minimum construction time to expedite opening of trail.
5. Provide free drainage, to include removal of seepage trapped by abutments.

Among other specific design requirements, the bridge was to have a length (bank-to-bank) of about 150 feet (subject to the contracting offeror's approval) and a width of 5 feet (inside rail-to-rail).

Under "Basis of Award," the RFP also stated: "Award will be made to the Offeror (1) whose proposal is technically acceptable and (2) whose Technical/Cost relationship is most advantageous to the Government."

In response to the RFP, a total of five proposals were received by the closing date of April 24, 1987. Bell Free's proposal included two alternatives: structures "A" and "B." The Forest Service describes Bell Free's structure "A" as a "wood bow-string truss" and structure "B" as a "steel arch." Forest Service evaluators considered that both structures had a "negative visual impact;" nevertheless, the Forest Service concluded that the company's proposal was acceptable and in the competitive range. In contrast, Alpha's proposal was considered to have a "minimum visual impact" with its proposed "low profile truss bridge" which was considered to "blend in with the environment and was aesthetically pleasing with low maintenance."

Following completion of the initial evaluation of all technical proposals, the Forest Service says it conducted discussions with all offerors in the competitive range. During the discussions with Bell Free, the contracting officer says that he informed the company that one of the weaknesses or deficiencies identified in both the company's proposal "A" and proposal "B" was the "negative visual impact of the proposed designs." The contracting officer also stated that he informed the company that "negative visual impact" meant that the visual perspective of the proposed high-profile designs were incompatible aesthetically with the surrounding natural area.

Written responses to these discussions were received from all offerors by May 29, 1987. Bell Free's technical proposal was revised to include a third alternative, "C," which was a "wood parallel chord type structure" according to the Forest Service. Bell Free's response also addressed the company's justification, from a visual and aesthetic perspective, for proposing the designs specified in its proposal. Following a review of all responses, the contracting officer issued a call for best and final offers to be submitted by June 5, 1987.

On June 12, 1987, the technical evaluation team completed its evaluation of all proposals and forwarded its results and recommendation for award to the contracting officer. Alpha's technical proposal received the highest ranking and was rated "exceptional" by the evaluation team. The overall rating of Alpha's proposal as exceptional was the result of a team rating of exceptional in each of the six different technical sub-factors.

The protester's proposal received an overall rating of acceptable. This overall rating was a result of the exceptional ratings in all the technical sub-factors except for feasibility of technical approach which was rated "acceptable to marginal."

As to this "acceptable to marginal" rating, the Forest Service explains that all three of the protester's proposed designs were considered aesthetically incompatible with the project site by the evaluation team: "A" and "B" because of their high-profile arch design, as noted above, and "C" because of the "overwhelming visual impact" of the large wooden truss members. This evaluation resulted in a low rating for this technical sub-factor, which, in turn, reduced the overall technical rating of the proposal. In contrast, the steel parallel chord continental bridge proposed by Alpha was considered by the evaluation team as compatible with the surrounding natural area because of its lower profile and the lesser visual impact of its structural members.

Upon receipt of the technical team's evaluation and recommendation, the contracting officer evaluated these findings in relation to the price proposals received. The contracting officer determined that Alpha's offer was most advantageous to the government, price and technical factors considered, and notice of award was issued to that firm in the amount of \$199,699.75. Specifically, the contracting officer noted that Alpha's proposal was lower in price than two other proposals which were rated acceptable, but about \$31,000 higher than Bell Free's "A" and "C" proposals, before determining that the price premium involved was justified.

Bell Free argues that the Forest Service gave improper weight to the general design criterion involving "overall aesthetics of bridge to best fit environment" and that, in any event, there is nothing in the record that supports the selection of Alpha's proposal at a price about 13 percent higher than Bell Free's price. Bell Free's argument that the Forest Service gave improper weight to aesthetic considerations is that the consideration is only one of many design elements to be considered in the Forest Service's evaluation of the "feasibility of the offeror's preliminary proposed design" yet the Forest Service gave a less than exceptional rating to Bell Free's proposal under "Feasibility of Technical Approach" because of this consideration.

Our Office does not determine independently the relative merit of proposals, as the evaluation of proposals is properly the function of the contracting agency which must bear the burden of any difficulties resulting from a defective evaluation. Litton Systems, Inc., Electron Tube Division, 63 Comp. Gen. 585, 588 (1984), 84-2 C.P.D. ¶ 317 at 4. Further, contracting agencies are relatively free to determine the manner in which proposals will be evaluated so long as the method selected provides a rational basis for

source selection and the actual evaluation is conducted in accordance with the established criteria. Joint Action in Community Service, Inc., B-214564, Aug. 27, 1984, 84-2 C.P.D. ¶ 228 at 2, 3. Also, we will question a contracting official's determination concerning the technical merits of proposals only upon a clear showing of unreasonableness. Bank Street College of Education, 63 Comp. Gen. 393, 400 (1984), 84-1 C.P.D. ¶ 607 at 10. The protester's mere disagreement with the agency's evaluation of its proposal does not in itself render the evaluation unreasonable. Intelcom Educational Services, Inc., B-220192.2, Jan. 24, 1986, 86-1 C.P.D. ¶ 83.

Although Bell Free insists that the Forest Service gave inappropriate weight to aesthetic considerations, it is clear that the description of those considerations found in the first-listed general design standard, set forth above, was broadly-worded and, of necessity, an overriding concern when judging the "appropriateness" of any proposed bridge design. This concern was especially for consideration when it had been determined that, as to Bell Free's and Alpha's proposals, the offerors' proposed design essentially complied with all other design criteria.<sup>1/</sup>

Consequently, we do not agree with Bell Free's assertion that overall aesthetic concerns received more evaluation weight than was appropriate under this RFP given the importance of that standard and assuming essential compliance with the other standards. To the extent that Bell Free is asserting that the aesthetic standard as set forth in the RFP was worded too broadly for reasonable interpretation, Bell Free should have questioned that standard before submitting its proposal, as any basis of protest against that standard would be untimely now. See 4 C.F.R. § 21.2(a)(2) (1987).

Moreover, as indicated above, the Forest Service specifically apprised the protester during discussions that an evaluated deficiency in its proposed designs was their aesthetic incompatibility with the surrounding natural area because of the perceived negative visual impact of the

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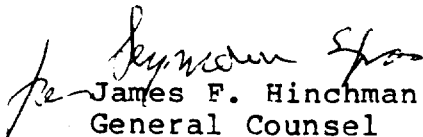
<sup>1/</sup> Bell Free notes that Alpha's proposed initial design indicated a bridge width, without rails, of 6 feet compared with a design requirement, above, of "five feet (inside rail-to-rail)." Even adding rail width might not have brought the width exactly to 5 feet; however, the Forest Service apparently considered this slight deviation to be insignificant, and the protester has not alleged nor shown that any slight deviation prejudiced Bell Free's competitive standing.

bridge designs caused by their high profile. The Forest Service confirmed this evaluated deficiency, and the protester's alternative "C" in response to the discussions showed the protester understood that this was considered to be an important evaluation criterion. Therefore, the evaluated deficiency in the protester's proposal is not attributable to any unreasonable action by the Forest Service, but rather the protester's failure to accommodate the agency's expressed concern about aesthetic considerations. See Phoenix Safety Associates, Ltd., B-216504, Dec. 4, 1984, 84-2 C.P.D. ¶ 621.

As to Bell Free's concern that there is no reasoning justifying the award at a higher price, we have observed that contract selection officials have broad discretion in determining the manner and extent to which they will make use of the technical and price evaluation results. Lockheed Corp., B-199741.2, July 31, 1981, 81-2 C.P.D. ¶ 71. Where the contracting agency has made a price/technical tradeoff, the question is whether the tradeoff was reasonable in light of the solicitation's evaluation scheme. Petro-Engineering, Inc., B-218255.2, June 12, 1985, 85-1 C.P.D. ¶ 677. Further, it is well-established that the evaluation of proposals is a matter within the discretion of the contracting agency subject only to a test of reasonableness. Harbert International, Inc., B-222472, July 15, 1986, 86-2 C.P.D. ¶ 67. Based on our review of the record, as discussed below, we will not question the Forest Service's selection of Alpha.

The record contains statements by the proposal evaluation team leader and the contracting officer that the cost premium inherent in the award to Alpha was justified given that proposal's perceived design advantage, described above. Obviously, the aesthetic considerations involved do not readily lend themselves to extended narrative description but rather are better viewed pictorially. These pictorial considerations have been furnished to all the parties and to our Office, and we see no basis to question the reasonableness of the Forest Service's cost/technical tradeoff.

The protest is denied.

  
James F. Hinchman  
General Counsel